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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,508	10/12/2001	Jacques Goudeau	A8218	9788
7590	10/03/2003			EXAMINER
SUGHRUE MION ZINN MACPEAK & SEAS, PLLC 2100 Pennsylvania Avenue, NW Washington, DC 20037-3213			HUG, ERIC J	
			ART UNIT	PAPER NUMBER
			1731	

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/975,508	GOUDEAU ET AL.	
	<b>Examiner</b> Eric Hug	<b>Art Unit</b> 1731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
**THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 12 October 2001 and 25 October 2002.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-42 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,2,9-17,24-30 and 37-42 is/are rejected.  
 7) Claim(s) 3-8,18-23 and 31-36 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 25 October 2002 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)                    4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)                    5) Notice of Informal Patent Application (PTO-152)  
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.                    6) Other:

## **DETAILED ACTION**

### ***Double Patenting***

Applicant is advised that should claims 1-14 be found allowable, claims 29-42 will be objected to under 37 CFR 1.75 as being substantial duplicates thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). The examiner can make no distinction between a preheater and a preheating means, between an injector and an injecting means, and between a heater and a heating means.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 2, 9-14, 16, 17, 24-30, and 37-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Le Sergent (US 5,194,714). Le Sergent discloses a method and apparatus for plasma deposition of silica onto a glass fiber preform. Silica precursor gases and other gases,

such as a fluorine-containing gas, flow through heater 11, then flow via pipe 12 to injector 12A where the gases contact a plasma and a rotating mandrel. Heater 11 is effectively a preheater and the plasma is generated at torch 13 which is effectively a heater for heating and depositing the silica particles onto the surface of the mandrel (overcladding). There is relative translation between the torch and the mandrel to provide complete coverage on support (rig) 18.

2. Claims 1, 2, 9-15, 16, 17, 24-30, and 37-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Drouart et al (US 5,522,007). Drouart discloses a method for plasma deposition of silica onto an optical fiber preform. Silica materials are fed from tank 10 through induction heaters 14 and 9 to a gas-fed plasma torch 5, where silica is injected onto the surface of a preform. The preform P is rotated relative to the plasma torch during particle deposition. A central processing unit (column 4, lines 56-65) controls the process. Fluorine compounds can be used (column 6, line 1).

3. Claims 1, 2, 9, 12, 14, 16, 17, 24, 25, 27, 28-30, 37, 40, and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Hawtof et al (US 6,565,823). Hawtof discloses a method for forming fused silica and depositing on a receptor surface, such as a rotating glass fiber preform. Silica materials are preheated in preheater 14, fed to injector 15, and supplied by the injector to gas burner 10, where the particles are fused onto the receptor surface.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37

CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Le Sergent (US 5,194,714). Le Sergent, described above, discloses relative movement between the mandrel support and the torch, but does not explicitly disclose a central processing unit for controlling the mandrel support movement. However, at the time of the invention, it would have been obvious to one skilled in the art to provide automatic control of the movement of the mandrel to insure complete and uniform coverage of the surface of the preform with silica particles, such automatic control being unpatentable also in view of *In re Venner*, 120 USPQ 192 (CCPA 1958) (to provide a mechanical or automatic means to replace manual activity which accomplishes the same result is within the skill of a routineer in the art).

***Allowable Subject Matter***

Claims 3-8, 18-23, and 31-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The above claimed elements correspond to preheating and shaping of solid silica particles rather than preheating of gaseous silica precursors, prior to injection into a heater. Although spheroidization of silica particles is known in the art, the prior art does not teach or suggest a means of combining spheroidization of silica particles via preheating with deposition of the particles on a preform via subsequent heating.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Hug whose telephone number is 703 308-1980. The examiner can normally be reached on Monday through Friday, 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 703 308-1164. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0651.

*Eric Hug*  
jeh

*Steven P. Griffin*  
STEVEN P. GRIFFIN  
SUPERVISORY PATENT EXAMINER  
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